IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A No. No.126 of 2001

Madho Sao & Ors. **.....** Appellants

Versus

Munarawa Sahu & Ors. **....** Respondents

CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA

For the Appellants : M/s H. K. Mehta, Manjusri Patra, Advocates
For the Respondents : Mr. Birendra Kumar, Advocate

17/Dated: 15th July, 2015
I.A. No.6174 of 2013
I.A. No.6357 of 2013

The Interlocutory Applications being I.A. No.6174 of 2013 and I.A. No.6357 of 2013 under Order XXII have been filed on behalf of the appellants for condoning the delay in preferring the substitution petition and for deleting the name of the deceased, respondent No.01.

Learned counsel, for the appellants, has submitted that the respondent No.1, Munarwa Sahun, died on 03.04.2013. That the legal heirs/ representatives of respondent No.1 are on record as respondent Nos.2 to 6 as sons and wife of the son of respondent No.1 respectively, hence, prays that name of the deceased respondent No.1 may be deleted from the cause title and delay of 46 days in preferring the I.A. No.6174 of 2013 may also be condoned.

Learned counsel for the respondents has not raised any serious objection.

Considering the reasons assigned in the supporting affidavit, there is reasonable and sufficient explanation given for condoning the delay of 46 days in preferring the I.A. No.6174 of 2013 accordingly, the delay is hereby condoned.

Let the name of deceased respondent No.1 be deleted from the cause tile, and abatement, if any, is also set aside.

Learned counsel for the appellants shall carry out necessary correction in the cause title of the appeal in red ink.

Accordingly, I.A. No.6174 of 2013 and I.A. No.6357 of 2013 stand allowed.

I.A. No.6173 of 2013
I.A. No.6356 of 2013

The Interlocutory Applications being I.A. No.6173 of 2013 and I.A. No.6356 of 2013 have been filed on behalf of the appellants for condoning the delay in preferring the substitution petition and for substitution of the names of legal heirs/ representatives of the deceased, respondent No.04.

Learned counsel, for the appellants, has submitted that the respondent No.4, Sheo Prasad Sao, died on the *Baisakhi Purnima* in the year 2012 leaving behind his, wife sons and daughters as legal heirs/ representatives. It is urged that the appellant No.1 was not aware about the procedure of the court and when he came to Ranhci in connection with the case, he was told that respondent No.4 has died. That on the advice of the counsel, he ascertained the date of death of respondent No.4 and the names of legal representatives and heirs whereafter he informed the counsel, resulting in the delay. That the delay is not due to deliberate or intentional laches of the petitioners. It is prayed that delay in preferring the substitution petition be condoned.

Learned counsel for the respondents has not raised any serious objection.

Considering the reasons assigned in the supporting affidavit, sufficient cause and reasonable explanation is given for condoning the delay in preferring the substitution petition accordingly, the delay is hereby condoned.

Let the name of deceased respondent No.4 be deleted and legal heirs/ representatives, as mentioned at para – 4 of the substitution petition, be substituted in place of deceased respondent No.04. Abatement, if any, is set aside.

Learned counsel for the appellants shall carry out necessary correction in the cause title of the appeal in red ink.

Accordingly, I.A. No.6173 of 2013 and I.A. No.6356 of 2013 stand allowed.

S.A. No.126 of 2001

Issue notice upon the newly substituted legal heirs/ representatives of deceased respondent No.4, under ordinary process, for which requisites, etc., must be filed within two weeks.

Office is directed to put up this case under the appropriate heading on 16.09.2015.

(AMITAV K. GUPTA, J.)

Chandan/-